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CERTIFICATE.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1901. 1902.

No. 509. 216.

THE UNITED STATES, APPELLANT,

vs.

JAMES A. RICKERT, AS COUNTY TREASURER IN AND FOR ROBERTS COUNTY, SOUTH DAKOTA.

ON A CERTIFICATE FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT.

FILED JANUARY 8, 1902.

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1 United States circuit court of appeals, eighth circuit.

UNITED STATES OF AMERICA, APPELLANT, vs. JAMES A. RICKERT, AS COUNTY TREASURER in and for Roberts County, South Dakota, appellee.	On certificate from the United States circuit court of appeals for the eighth circuit.

The United States circuit court of appeals for the eighth circuit, sitting at the city of St. Louis, Missouri, on the 6th day of January, A. D. 1902, hereby certifies that upon the record on file in said court in the above-entitled cause, wherein the United States of America is appellant and James A. Rickert, as county treasurer in and for Roberts County, South Dakota, is appellee, and which cause is now pending before this court on appeal from the circuit court of the United States for the district of South Dakota, the following facts appear, namely:

The bill of appellant alleges that this suit is instituted by and under the direction of the Attorney-General of the United States; that the said James A. Rickert is the duly elected, qualified, and acting county treasurer in and for the county of Roberts, in the State of South Dakota; that Charles R. Crawford, Adam Little Thunder, Solomon Two Stars, and Victor Renville are Indians and members of the Sisseton band of Sioux Indians in the State of South Dakota, and are now and at all times hereinafter mentioned were wards of the United States and under the guardianship and supervision of the United States, and are now and at all times hereinafter mentioned were residents of that portion of the Sisseton Agency situated and being in the county of Roberts, State of South Dakota; that the said Indians are now holding, and for several years last past have held, allotted lands in said Roberts County and

2 within the former Sisseton Indian Reservation, which lands were allotted to the said Indians under the provisions of the agreement of December 12th, 1889, as ratified by the act of March 3, 1891, and more particularly under section V of the general allotment act, approved February 8, 1887; that the lands allotted by the United States to the said Indians are now and at all times hereinafter mentioned were held in trust by the United States under the provisions of said general allotment act. (The descriptions are omitted.)

That during the year 1900 the duly authorized officers of Roberts County, South Dakota, listed certain improvements on the allotted lands of said Charles R. Crawford and returned the assessment upon the improvements on said allotted lands at the sum of six hundred thirty ($630.00) dollars, which said improvements consisted of a large frame house and barn attached to, a fixture and a permanent improvement upon the said allotted lands, and other improvements of a permanent character attached to the said allotted lands; that the amount of taxes extended on the tax roll upon said improvements for State and county purposes for the year 1900 was the sum of twenty-one dollars and forty-two cents ($21.42); that for the said year 1900 the officers of said Roberts County listed and assessed and returned upon the tax rolls of said county certain personal property against said Charles R. Crawford, consisting of horses, one cow and two wagons at the aggregate valuation of one hundred and

twenty-nine dollars ($129) upon which was assessed and levied a tax of four dollars and ninety cents ($4.90); that said personal property was issued to the said allottee by the United States, appellant herein, pursuant to the statutes of the United States and the treaties between the United States and the band of Indians to which this Crawford belongs, was branded "I. D." and was then and there in the possession of said allottee and was kept and used by the said allottee upon his said allotment.

3 The bill contains similar allegations regarding the other Indians named therein covering the years 1899 and 1900; that the defendant as county treasurer and collector of taxes for the said county of Roberts threatens to and is about to sell the property heretofore described as that of the Indians named in the bill and assessed for the years above stated, and will sell the same unless restrained and the plaintiff and appellant will be subjected to and compelled to defend a multitude of actions and a multiplicity of suits and proceedings caused thereby which will greatly embarrass complainant; that the assessments of said property and the amounts of taxes so assessed as aforesaid and returned upon the tax roll of said county are upon the books of Roberts County, South Dakota, and of record in said county in the office of the county auditor and treasurer, and are a cloud upon the title of the lands of complainant above referred to. The bill further alleges that complainant and appellant is without any plain, adequate, and speedy remedy at law, and can only have relief in a court of equity, and that irreparable injury will be inflicted upon complainant in case the enforcement of the assessment and collection of said taxes is not enjoined.

To this bill of complaint the defendant and appellee demurred upon the grounds:

First. That said bill of complaint does not disclose any equity.

Second. That said bill of complaint does not entitle the complainant to the relief prayed or otherwise.

Third. That the complainant has no interest in the subject-matter of the suit.

Fourth. That the property assessed by Roberts County, of which defendant and appellee is treasurer, is personal property, and an injunction will not lie to restrain its collection.

Fifth. That complainant and appellant has an adequate remedy at law.

Upon the hearing said demurrer was sustained, and appellant failing to amend its bill within the time allowed by the court for

4 such purpose, the court on the 15th day of March, 1901, dismissed the bill upon the merits of the suit, which decree was duly entered of record. Afterwards in due season, to wit, on the 28th day of March, 1901, the record in the proceeding was duly removed by appeal to the United States circuit court of appeals for the eighth circuit, where it still remains and the cause is yet undecided.

And the said United States circuit court of appeals hereby certifies that to the end that it may properly decide said case it desires the instruction of the Supreme Court of the United States upon the following questions or propositions of law arising therein, which are duly raised and presented by the record in said case:

First. Were the lands held by the allottee Charles R. Crawford and the other Indians named in the bill subject to assessment and taxation

by the taxing authorities of Roberts County, South Dakota, in 1899 and 1900?

Second. Were the permanent improvements, such as houses and other structures upon the lands held by allotment by Charles R. Crawford and the other Indians named in the bill, subject to assessment and taxation by the taxing officers of Roberts County as personal property in 1899 and 1900?

Third. Was the personal property, consisting of cattle, horses, and other property of like character, which had been issued to these Indians by the United States and which they were using upon their allotments liable to assessment and taxation by the taxing officers of Roberts County in 1899 and 1900?

Fourth. Has the United States such an interest in this controversy or in its subjects as entitles it to maintain this suit?

Fifth. Has the United States a remedy at law so prompt and efficacious that it is deprived of all relief in equity?

5 In witness whereof the undersigned judges of the said United States circuit court of appeals for the said eighth circuit have hereunto set their hands this 6th day of January, A. D. 1902, at St. Louis, Missouri, and hereby order and direct that the foregoing certificate be filed in said United States circuit court of appeals and by the clerk of said court be duly forwarded to the Supreme Court of the United States.

HENRY C. CALDWELL,
WALTER H. SANBORN,
AMOS M. THAYER,
Judges of the United States Circuit Court of Appeals for the Eighth Circuit.

6 United States circuit court of appeals for the eighth circuit.

I, John D. Jordan, clerk of the United States circuit court of appeals for the eighth circuit, do hereby certify that the foregoing certificate in the case of United States of America, appellant, vs. James A. Rickert, as county treasurer in and for Roberts County, South Dakota, No. 1580, December term, 1901, was duly filed and entered of record in my office by order of said court, and as directed by said court the said certificate is by me forwarded to the Supreme Court of the United States for its action thereon.

In testimony whereof I hereunto subscribe my name and affix the seal of the said United States circuit court of appeals for the eighth circuit, at the city of St. Louis, Missouri, this 6th day of January, A. D. 1902.

[SEAL.]

JOHN D. JORDAN,
Clerk of the United States Circuit Court of Appeals for the Eighth Circuit.

7 (Indorsed:) U. S. circuit court of appeals, eighth circuit. December term, 1901. No. 1580. United States of America, appellant, vs. James A. Rickert, as county treasurer, etc. Certificate of questions to the Supreme Court of the United States. Filed Jan. 6, 1902. John D. Jordan, clerk. Received, office Supreme Court of U. S., Jan. 8, 1902.

8 (Indorsement on cover:) (Certificate.) File No., 18362. U. S. C. C. of appeals, 8th circuit. Term No., 509. The United States, appellant, vs. James A. Rickert, as county treasurer in and for Roberts County, South Dakota. Filed January 8, 1902.

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